

REMARKS/ARGUMENTS

Claim 1 is amended herein to address minor errors therein of a typographical nature, the amendments being supported by the originally filed specification and claims. No new matter is incorporated herein by way of the present amendments.

Applicant appreciates the indication of allowability as to claims 44 to 104, and 106-107.

In the final office action, claims 1-43 were rejected under 35 U.S.C. § 101 as allegedly claiming the same invention as related U.S. Patent 6,887,503. Claims 1-43 were also rejected under the judicially created doctrine of obviousness-type double-patenting over U.S. Patent 6,887,503.

A terminal disclaimer is submitted herewith which obviates the obviousness-type double-patenting rejections of claims 1-43.

With respect to the rejections under 35 U.S.C. §101, applicant seeks to schedule a telephonic interview, and believes such interview will be instrumental in reaching a consensus and advancing the prosecution of the application to allowance.

Applicant respectfully traverses the rejections under 35 U.S.C. §101. Applicant disagrees that claims 1-43 claim the same subject matter. The claims are not of the same scope as those of related U.S. Patent 6,887,503. *Ipsa facto*, they do not claim the same subject matter. Claims 1-43 include independent claims 1 and 41. Each of these claims cover different subject matter than the claims of the related patent.

Claim 1 has different scope than the related patent. The language of claim 1 is not the same as the language of the corresponding claim 1 of the related patent. Moreover, it is not clear that the language would be construed to have the same meaning in both claims. For example, the recitation "B

component is a solid (including a viscoelastic solid)" is different from, and might be construed differently than the language "B component is a solid, which may be a viscoelastic solid" in claim 1 of the present application.

This is true of other claims as well. Claim 8 of the present application contains the language "B component is formed of a single component" and that "bridging cell walls . . . extending . . . around each cell of A". This language apparently is not found in the corresponding claim of the related patent. Thus, claim 8 may also be construed differently than a corresponding claim of the related patent.

As to independent claim 41, the recitation therein that each of components A and B "may be a viscoelastic solid at 20 °C," language not found in the corresponding claim 41 of the related patent, may give claim 41 of the present application a broader construction than the related patent.

As all others of claims 2 through 43 depend from one of claims 1 and 41, each recites different subject matter than the related patent for at least the same reasons as discussed above.

Accordingly, the rejection of claims 1 to 43 under 35 U.S.C. § 101 should be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection

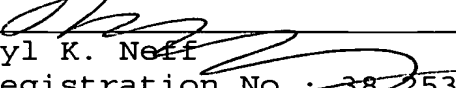
Application No.: 10/787,214

Docket No.: RASMUS 3.3-001 CONT

with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 30, 2010

Respectfully submitted,

By   
Daryl K. Neff  
Registration No.: 38,253  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant

1184658\_1.DOC